

AMENDED IN SENATE AUGUST 25, 1999

AMENDED IN SENATE AUGUST 17, 1999

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AMENDED IN SENATE JUNE 2, 1999

AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 458

Introduced by Assembly Member Zettel

February 16, 1999

An act to amend Sections 8201, 8202, and 8212 of, and to add Section 8226 to, the Education Code, and to amend ~~Section~~ *Sections 1596.859 and 1596.890* of the Health and Safety Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 458, as amended, Zettel. Child care providers.

(1) Existing law requires every licensed child day care facility to make accessible to the public a copy of any licensing report pertaining to the facility that documents a facility visit or a substantial complaint investigation. Existing law requires each child day care facility to permanently post in a facility location accessible to parents and guardians a written notice of the right to make an inspection of the facility. Existing law also requires the Community Care Licensing Division of the State Department of Social Services to regulate child care

licensees through an organizational unit separate from that used to regulate all other licensing programs.

This bill would require every child care resource and referral program and every alternative payment program to advise every person who requests a child care referral of his or her right to the licensing information of a licensed child day care facility required to be maintained at the facility, and to access any public files pertaining to the facility that are maintained by the State Department of Social Services Community Care Licensing Division.

A willful or repeated violation of related provisions is a misdemeanor pursuant to existing provisions of law.

This bill would, notwithstanding those provisions, ~~make repeated and documented violations of these notice provisions subject only to the sanction of ineligibility for state funding for a period of one year~~ provide that the sole sanction for failure of a child care resource and referral agency or an alternative payment program to comply with the bill's requirement is that set forth in the "Funding Terms and Conditions" agreement between the affected agency or program and the State Department of Education.

(2) This bill would incorporate additional changes in Section 8202 of the Education Code, proposed by SB 1249, to be operative only if SB 1249 and this bill are both chaptered and become effective on or before January 1, 2000, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited
2 as "Oliver's Law."

3 SEC. 2. (a) The Legislature finds and declares all of
4 the following:

5 (1) The Education Code and the Health and Safety
6 Code provide for the licensure of child day care facilities
7 and providers. Parents and families of children who
8 utilize licensed child care can make more informed child
9 care choices by investigating, reviewing, and evaluating

1 all available information regarding licensed child care
2 facilities and providers.

3 (2) Child care resource and referral agencies are in a
4 unique position to provide notification to parents and
5 families of children who utilize licensed child care of their
6 right to review certain child care licensing files.

7 (b) It is, therefore, the intent of the Legislature to
8 encourage parental responsibility to thoroughly
9 investigate, review, and evaluate all available
10 information relating to licensed child care providers by
11 providing notice to parents and families of children who
12 utilize licensed child care of their right to review certain
13 child care licensing files.

14 SEC. 3. Section 8201 of the Education Code is
15 amended to read:

16 8201. The purpose of this chapter is as follows:

17 (a) To provide a comprehensive, coordinated, and
18 cost-effective system of child care and development
19 services for children to age 14 and their parents, including
20 a full range of supervision, health, and support services
21 through full- and part-time programs.

22 (b) To encourage community-level coordination in
23 support of child care and development services.

24 (c) To provide an environment that is healthy and
25 nurturing for all children in child care and development
26 programs.

27 (d) To provide the opportunity for positive parenting
28 to take place through understanding of human growth
29 and development.

30 (e) To reduce strain between parent and child in
31 order to prevent abuse, neglect, or exploitation.

32 (f) To enhance the cognitive development of
33 children, with particular emphasis upon those children
34 who require special assistance, including bilingual
35 capabilities to attain their full potential.

36 (g) To establish a framework for the expansion of child
37 care and development services.

38 (h) To empower and encourage parents and families
39 of children who require child care services to take
40 responsibility to review the safety of the child care

1 program or facility and to evaluate the ability of the
2 program or facility to meet the needs of the child.

3 SEC. 4. Section 8202 of the Education Code is
4 amended to read:

5 8202. It is the intent of the Legislature that:

6 (a) All families have access to child care and
7 development services, through resource and referral
8 services, where appropriate, regardless of ethnic status,
9 cultural background, or special needs. It is further the
10 intent that subsidized child care and development
11 services be provided to persons meeting the eligibility
12 criteria established under this chapter to the extent
13 funding is made available by the Legislature and
14 Congress.

15 (b) The healthy physical, cognitive, social, and
16 emotional growth and development of children be
17 supported.

18 (c) Families achieve and maintain their personal,
19 social, economic, and emotional stability through an
20 opportunity to attain financial stability through
21 employment, while maximizing growth and
22 development of their children, and enhancing their
23 parenting skills through participation in child care and
24 development programs.

25 (d) Community-level coordination in support of child
26 care and development services be encouraged.

27 (e) Families have a choice of programs that allow for
28 maximum involvement in planning, implementation,
29 operation, and evaluation of child care and development
30 programs.

31 (f) Parents and families be fully informed of their
32 rights and responsibilities to evaluate the quality and
33 safety of child care programs, including, but not limited
34 to, their right to inspect child care licensing files.

35 (g) Planning for expansion of child care and
36 development programs be based on ongoing local needs
37 assessments.

38 (h) The Superintendent of Public Instruction, in
39 providing funding to child care and development
40 agencies, promote a range of services which will allow

1 parents the opportunity to choose the type of care most
2 suited to their needs. The program scope may include the
3 following:

4 (1) Programs located in centers, family day care
5 homes, or in the child's own home.

6 (2) Services provided part-day, full-day, and during
7 nonstandard hours including weekend care, night and
8 shift care, before and after school care, and care during
9 holidays and vacation.

10 (3) Child care services provided for infants, preschool,
11 and schoolage children.

12 (i) The Superintendent of Public Instruction be
13 responsible for the establishment of a public hearing
14 process or other public input process that ensures the
15 participation of those agencies directly affected by a
16 particular section or sections of this chapter.

17 SEC. 4.5. Section 8202 of the Education Code is
18 amended to read:

19 8202. It is the intent of the Legislature that:

20 (a) All families have access to child care and
21 development services, through resource and referral
22 services, where appropriate, regardless of ethnic status,
23 cultural background, or special needs. It is further the
24 intent that subsidized child care and development
25 services be provided to persons meeting the eligibility
26 criteria established under this chapter to the extent
27 funding is made available by the Legislature and
28 Congress.

29 (b) The healthy physical, cognitive, social, and
30 emotional growth and development of children be
31 supported.

32 (c) Families achieve and maintain their personal,
33 social, economic, and emotional stability through an
34 opportunity to attain financial stability through
35 employment, while maximizing growth and
36 development of their children, and enhancing their
37 parenting skills through participation in child care and
38 development programs.

39 (d) Community-level coordination in support of child
40 care and development services be encouraged.

(e) Families have, and are informed that they have, a choice of programs that allow for maximum involvement in planning, implementation, operation, and evaluation of child care and development programs and that they be given the maximum possible information about the availability, cost, operation, and effectiveness of each option.

(f) Parents and families be fully informed of their rights and responsibilities to evaluate the quality and safety of child care programs, including, but not limited to, their right to inspect child care licensing files.

(g) Planning for expansion of child care and development programs be based on ongoing local needs assessments.

(h) The Superintendent of Public Instruction, in providing funding to child care and development agencies, promote a range of services which will allow parents the opportunity to choose the type of care most suited to their needs. The program scope may include the following:

(1) Programs located in centers, family day care homes, or in the child's own home.

(2) Services provided part-day, full-day, and during nonstandard hours including weekend care, night and shift care, before and after school care, and care during holidays and vacation.

(3) Child care services provided for infants, preschool, and schoolage children.

(i) The Superintendent of Public Instruction be responsible for the establishment of a public hearing process or other public input process that ensures the participation of those agencies directly affected by a particular section or sections of this chapter.

SEC. 5. Section 8212 of the Education Code is amended to read:

8212. For purposes of this article, child care resource and referral programs, established to serve a defined geographic area, shall provide the following services:

(a) Identification of the full range of existing child care services through information provided by all relevant

1 public and private agencies in the areas of service, and
2 the development of a resource file of those services which
3 shall be maintained and updated at least quarterly. These
4 services shall include, but not be limited to, family day
5 care homes, public and private day care programs,
6 full-time and part-time programs, and infant, preschool,
7 and extended care programs.

8 The resource file shall include, but not be limited to, the
9 following information:

- 10 (1) Type of program.
- 11 (2) Hours of service.
- 12 (3) Ages of children served.
- 13 (4) Fees and eligibility for services.
- 14 (5) Significant program information.

15 (b) (1) Establishment of a referral process which
16 responds to parental need for information and which is
17 provided with full recognition of the confidentiality
18 rights of parents. Resource and referral programs shall
19 make referrals to licensed child care facilities. Referrals
20 shall be made to unlicensed care facilities only if there is
21 no requirement that the facility be licensed. The referral
22 process shall afford parents maximum access to all
23 referral information. This access shall include, but is not
24 limited to, telephone referrals to be made available for at
25 least 30 hours per week as part of a full week of operation.
26 Every effort shall be made to reach all parents within the
27 defined geographic area, including, but not limited to,
28 any of the following:

- 29 (A) Toll-free telephone lines.
- 30 (B) Office space convenient to parents and providers.
- 31 (C) Referrals in languages which are spoken in the
32 community.

33 Each child care resource and referral agency shall
34 publicize its services through all available media sources,
35 agencies, and other appropriate methods.

36 (2) (A) Provision of information to any person who
37 requests a child care referral of his or her right to view the
38 licensing information of a licensed child day care facility
39 required to be maintained at the facility pursuant to
40 Section 1596.859 of the Health and Safety Code and to

1 access any public files pertaining to the facility that are
2 maintained by the State Department of Social Services
3 Community Care Licensing Division.

4 (B) A written or oral advisement in substantially the
5 following form will comply with the requirements of
6 subparagraph (A):

7 “State law requires licensed child day care facilities to
8 make accessible to the public a copy of any licensing
9 report pertaining to the facility that documents a facility
10 visit or a substantiated complaint investigation. In
11 addition, a more complete file regarding a child care
12 licensee may be available at an office of the State
13 Department of Social Services Community Care
14 Licensing Division. You have the right to access any
15 public information in these files.”

16 (c) Maintenance of ongoing documentation of
17 requests for service tabulated through the internal
18 referral process. The following documentation of
19 requests for service shall be maintained by all child care
20 resource and referral agencies:

21 (1) Number of calls and contacts to the child care
22 information and referral agency or component.

23 (2) Ages of children served.

24 (3) Time category of child care request for each child.

25 (4) Special time category, such as nights, weekends,
26 and swing shift.

27 (5) Reason that the child care is needed.

28 This information shall be maintained in a manner that
29 is easily accessible for dissemination purposes.

30 (d) Provision of technical assistance to existing and
31 potential providers of all types of child care services. This
32 assistance shall include, but not be limited to:

33 (1) Information on all aspects of initiating new child
34 care services including, but not limited to, licensing,
35 zoning, program and budget development, and
36 assistance in finding this information from other sources.

37 (2) Information and resources which shall help
38 existing child care services providers to maximize their
39 ability to serve the children and parents of their
40 community.

(3) Dissemination of information on current public issues affecting the local and state delivery of child care services.

(4) Facilitation of communication between existing child care and child-related services providers in the community served.

Services prescribed by this section shall be provided in order to maximize parental choice in the selection of child care to facilitate the maintenance and development of child care services and resources.

SEC. 6. Section 8226 is added to the Education Code, to read:

8226. (a) When making referrals, every agency operating pursuant to this article shall provide information to any person who requests a child care referral of his or her right to view the licensing information of a licensed child day care facility required to be maintained at the facility pursuant to Section 1596.859 of the Health and Safety Code and to access any public files pertaining to the facility that are maintained by the State Department of Social Services Community Care Licensing Division.

(b) A written or oral advisement in substantially the following form will comply with the requirements of subdivision (a):

“State law requires licensed child day care facilities to make accessible to the public a copy of any licensing report pertaining to the facility that documents a facility visit or a substantiated complaint investigation. In addition, a more complete file regarding a child care licensee may be available at an office of the State Department of Social Services Community Care Licensing Division. You have the right to access any public information in these files.”

SEC. 7. Section 1596.859 of the Health and Safety Code is amended to read:

1596.859. (a) (1) Each licensed child day care facility shall make accessible to the public a copy of any licensing report pertaining to the facility that documents a facility visit or a substantiated complaint investigation.

1 An individual report shall not be required to be
2 maintained beyond three years from the date of issuance,
3 and shall not include any information that would not have
4 been accessible to the public through the State
5 Department of Social Services Community Care
6 Licensing Division.

7 (2) (A) Every child care resource and referral
8 program established pursuant to Article 2 (commencing
9 with Section 8210) of Chapter 2 of Part 6 of the Education
10 Code, and every alternative payment program
11 established pursuant to Article 3 (commencing with
12 Section 8220) of Chapter 2 of Part 6 of the Education
13 Code shall advise every person who requests a child care
14 referral of his or her right to the licensing information of
15 a licensed child day care facility required to be
16 maintained at the facility pursuant to ~~Section 1596.859 of~~
17 ~~the Health and Safety Code~~ *this section* and to access any
18 public files pertaining to the facility that are maintained
19 by the State Department of Social Services Community
20 Care Licensing Division.

21 (B) A written or oral advisement in substantially the
22 following form will comply with the requirements of
23 subparagraph (A):

24 “State law requires licensed child day care facilities to
25 make accessible to the public a copy of any licensing
26 report pertaining to the facility that documents a facility
27 visit or a substantiated complaint investigation. In
28 addition, a more complete file regarding a child care
29 licensee may be available at an office of the State
30 Department of Social Services Community Care
31 Licensing Division. You have the right to access any
32 public information in these files.”

33 ~~(C) Notwithstanding Section 1596.890 of the Health~~
34 ~~and Safety Code, or any other provision of law, the sole~~
35 ~~sanction for the repeated and documented failure of a~~
36 ~~resources and referral agency or an alternative payment~~
37 ~~program to comply with the notice provisions of this~~
38 ~~paragraph shall be to make the program or agency~~
39 ~~ineligible for state funding for a period of one year.~~

1 (b) Within 30 days after the date specified by the
2 department for a licensee to correct a deficiency, the
3 department shall provide the licensee with a licensing
4 report or other appropriate document verifying
5 compliance or noncompliance. Notwithstanding any
6 other provision of law, and with good cause, the
7 department may provide the licensee with an alternate
8 timeframe for providing the licensing report or other
9 appropriate document verifying compliance or
10 noncompliance. If the department provides the licensee
11 with an alternate timeframe, it shall also provide the
12 reasons for the alternate timeframe, in writing. The
13 licensee may make this documentation available to the
14 public.

15 SEC. 8. *Section 1596.890 of the Health and Safety*
16 *Code is amended to read:*

17 1596.890. (a) Any person who willfully or repeatedly
18 violates any provision of this chapter, or any rule or
19 regulation promulgated under this chapter is guilty of a
20 misdemeanor. Upon conviction thereof, such a person
21 shall be punished by a fine not to exceed one thousand
22 dollars (\$1,000) or by imprisonment in the county jail for
23 a period not to exceed 180 days, or by both the fine and
24 imprisonment. The operation of a child day care facility
25 without a license issued pursuant to this chapter shall
26 make the owner or operator, or both, subject to a
27 summons to appear in court.

28 (b) *Notwithstanding subdivision (a) or any other*
29 *provision of law, the sole sanction for failure of a resources*
30 *and referral agency or an alternative payment program*
31 *to comply with paragraph (2) of subdivision (a) of*
32 *Section 1596.859 shall be set forth in the 'Funding Terms*
33 *and Conditions' agreement between the affected agency*
34 *or program and the State Department of Education.*

35 SEC. 9. Section 4.5 of this bill incorporates
36 amendments to Section 8202 of the Education Code
37 proposed by both this bill and SB 1249. It shall only
38 become operative if (1) both bills are enacted and
39 become effective on or before January 1, 2000, (2) each
40 bill amends Section 8202 of the Education Code, and (3)

- 1 this bill is enacted after SB 1249, in which case Section 4
- 2 of this bill shall not become operative.

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